

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KENNETH BRANTLEY,)	
)	
Plaintiff,)	4:12CV3215
)	
v.)	
)	MEMORANDUM
BNSF RAILWAY COMPANY,)	AND ORDER
)	
Defendant.)	
)	

Defendant has filed a Motion for Sanctions and Dismissal (Filing [58](#)) based on Plaintiff's alleged failure to attend an agreed-upon and noticed deposition. Defendant alleges that the Motion for Sanctions and Dismissal is the third motion it has filed in this case due to "plaintiff's refusal to participate in the discovery process." (Filing [58](#) ¶ 6.) The motion requests dismissal of Plaintiff's amended complaint with prejudice as a sanction for Plaintiff's failure to attend his deposition, as well as \$1,085.00 in costs and fees incurred in scheduling and attending the deposition and \$200.00 in attorneys' fees for bringing the motion.

IT IS ORDERED that Defendant's Motion for Sanctions and Dismissal (Filing [58](#)) is referred to Magistrate Judge Zwart for disposition of the requests for costs and fees and for a Findings and Recommendation regarding the motion to dismiss Plaintiff's amended complaint with prejudice as a sanction for Plaintiff's failure to attend his deposition.

DATED this 28th day of October, 2013.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge

*This opinion may contain hyperlinks to other documents or Web sites. The U.S. District Court for the District of Nebraska does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.